

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

RONALD F. PASSATEMPO, TRUSTEE, )  
On behalf of the Samuel Pietropaolo )  
Irrevocable Trust, SAMUEL PIETROPAOLO, )  
GRANTOR to the Samuel Pietropaolo )  
Irrevocable Trust, and PATRICIA D. )  
PIETROPAOLO, BENEFICIARY of the )  
Samuel Pietropaolo Irrevocable Trust, )

Plaintiffs,

V.

Civil Action No.  
05-10118-GAO

FREDERICK V. McMENIMEN III, BARRY )  
G. ARMSTRONG, NEW ENGLAND )  
ADVISORY GROUP, LLC, 1717 CAPITAL )  
MANAGEMENT COMPANY, NATIONWIDE) )  
PROVIDENT (f/k/a Provident Mutual Life )  
Insurance Company), and NATIONWIDE )  
FINANCIAL SERVICES, INC., )

Defendants,

**PLAINTIFFS' REQUEST FOR LEAVE TO FILE  
AMENDED MOTION FOR PRELIMINARY INJUNCTION**

Plaintiffs Ronald P. Passatempo, Trustee, and Patricia D. Pietropaolo (“Plaintiffs”) respectfully request leave to file the accompanying Amended Motion For Preliminary Injunction, together with the accompanying Memorandum of Law In Support of Amended Motion For Preliminary Injunction. As grounds therefore, the Plaintiffs submit that their amended motion papers vary substantively from their previously filed motion papers (Docket Nos. 15 through 17) only in that their Memorandum of Law discusses certain case law raised by Defendant Frederick V. McMenimen, III in his Motion for Enlargement of Time to File Opposition to Motion For Preliminary Injunction

(Docket No. 18), which case law does not (contrary to Mr. McMenimen's assertions in his Motion For Sanctions Pursuant To Fed. R. Civ. P. 11, which was served upon the Plaintiffs on May 5, 2005) prohibit this Court from granting the relief the Plaintiffs seek. This newly added discussion, the Plaintiffs respectfully submit, will assist the Court in arriving at its decision as to whether to grant the requested preliminary relief.

Respectfully submitted,

Plaintiffs RONALD P. PASSATEMPO,  
TRUSTEE, On behalf of the Samuel  
Pietropaolo Irrevocable Trust, SAMUEL  
PIETROPAOLO, GRANTOR to the Samuel  
Pietropaolo Irrevocable Trust, and  
PATRICIA D. PIETROPAOLO,  
BENEFICIARY of the Samuel Pietropaolo  
Irrevocable Trust,

By their counsel:

/s/ David M. Burkoff  
Howard M. Cooper (BBO #543842)  
David M. Burkoff (BBO #657447)  
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(617) 720-2626

Dated: May 16, 2005

Local Rule 7.1(A)(2) Certification

I hereby certify that I have conferred with counsel for Defendant Frederick V. McMenimen, III in a good faith attempt to resolve or narrow the issues presented herein.

/s/ David M. Burkoff